

SENATE BILL REPORT

SB 5059

As of January 25, 2011

Title: An act relating to insurance coverage for autism spectrum disorders.

Brief Description: Regarding insurance coverage for autism spectrum disorders.

Sponsors: Senators Murray, Pflug, Brown, Kastama, Rockefeller, Shin, Hobbs, Delvin, Conway, Chase, Regala, Kline, Haugen, Kohl-Welles, Pridemore, Tom, Fraser, White, McAuliffe and Kilmer.

Brief History:

Committee Activity: Health & Long-Term Care: 1/24/11.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Staff: Mich'l Needham (786-7442)

Background: Autism spectrum disorders are pervasive developmental disorders with a wide range of severity of symptoms. Autism spectrum disorders affect as many as one in 150 children nationally, and three to four times more boys than girls. Treatment can include psychiatric care; neurodevelopmental therapies such as occupational therapy, physical therapy and speech therapy; and treatment for co-occurring medical conditions. Early intensive behavioral intervention or applied behavioral analysis can produce substantial benefits for many children with autism spectrum disorders.

Treatment for the full range of services required is often not covered or limited in most insurance plans. Current state insurance mandates require group policies to cover neurodevelopmental therapies up through age six. Mental health parity requirements for individual and group insurance policies can be limited, and do not generally include applied behavioral analysis.

There are some state services and programs provided for persons with developmental disabilities offered through the Department of Social and Health Services Aging and Disability Services Administration. Autism is included in the statutory definition of a developmental disability. The scope of services provided through the department includes a wide range of services to assist persons with acquiring life skills, and raising the level of physical, mental, social, and vocational functioning. Services can include education, training for employment, and therapies including behavior management. Access to services is

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restricted by availability of funding, except for access to institutional services, and there is an extensive waiting list for state services.

State statute requires a review of all mandated health insurance benefits, called sunrise reviews to be completed by the Department of Health (DOH). Each proposal for additional mandated benefits must be evaluated with criteria established in law that include an assessment of the social impact, the financial impact, and evidence of health care service efficacy. The DOH completed a sunrise review of a proposal for treatment of autism spectrum disorders in 2008, published in January 2009, recommending not to enact the proposal.

Summary of Bill: All health plans issued by licensed insurance carriers, and self-insured plans offered under the Public Employees Benefits Board (PEBB) program, must include coverage for the diagnosis and treatment of autism spectrum disorders. Coverage must be included in contracts issued or renewed on or after the effective date of the act.

Treatment for autism spectrum disorders includes care and equipment prescribed or ordered by a licensed physician or licensed psychologist, and may include but is not limited to behavioral health treatment, pharmacy care, psychiatric care, therapeutic care, and any care that is demonstrated to be medically necessary. Medically necessary is defined to include a service that may prevent the onset of an illness, condition, injury, or disability; reduce or ameliorate the physical, mental, or developmental effects of an illness, condition, injury, or disability; or assist in achieving or maintaining maximum functional capacity in performing daily activities.

The benefit plan must not impose limits on the number of visits an individual may make with an autism services provider. Coverage may not be denied on the basis that it is non-restorative, educational, or custodial in nature. Copayments, co-insurance, or deductible amounts must be the same as other cost-sharing provisions in the benefit package. The benefits may not otherwise limit those available under the mental health parity requirements.

Insurance carriers may request a review of the treatment plan no more than every 12 months, unless the insurer and the individual's licensed physician or licensed psychologist agree that a more frequent review is necessary. The cost of the review must be borne by the insurer.

The act shall be known as Shayan's law, an act extending coverage for autism spectrum disorders.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Autism treatment in this country costs families thousands of dollars. Applied behavior analysis (ABA) can cost in the range of \$50,000 per

year, but children without appropriate treatment and early intervention cost millions over their lifetimes. The prevalence of autism is increasing rapidly, with a tsunami of autism impacts coming. Twenty-three states have adopted some legislation expanding coverage for autism spectrum disorders. Access to the ABA is the key to success for these children. Expanding insurance coverage to include the ABA will save states money with special education budgets and state programs for persons with developmental delays – it will shift costs to private insurance. Although insurance should cover autism services today, most insurance policies exclude autism treatments as habilitative or educational in nature and not fitting within the medical necessity guidelines used today. Expanding the insurance coverage for the full scope of treatment that the children need would help shift costs from school districts. We would not need to sue school districts to provide the extensive special educational supports these children need. You've already endorsed the policy of providing coverage, with the passage of mental health parity laws. Now we need to stand up to insurance companies to re-direct their interpretation of the coverage allowed under these laws. It is not right that there is such a disparity between the haves and have nots – those able to afford the 25 to 40 hours of ABA treatment per week see very different results and opportunities than families that cannot afford the treatment.

CON: The principle concern is the cost impact of a new mandate that is as open as this – there are no limits for the services that must be provided, the bill creates a new autism services provider and it is unclear who certifies or licenses such providers, and the bill expands the current definition of medical necessity beyond any existing medical codes to include custodial and educational services. Adding these services to insurance policies will shift costs to all enrollees that purchase insurance, at a time when many are struggling to maintain coverage that continues to have significant price increases. There may also be a concern with expanding mandates benefits, while the federal essential health benefits are being defined. State mandated benefits above and beyond the essential health benefits will need to be for paid by the state when the new federal requirements are put in place.

OTHER: We think there needs to be more clarity in the language around the providers that can form a treatment plan to ensure the bill does not exclude the continuing use of other provider types that are successfully providing treatment to children with autism, including speech and hearing therapists, physical therapists, and social workers.

Persons Testifying: PRO: Senator Murray, prime sponsor; Lorri Unumb, Autism Speaks; Arzu Forough, Washington Autism Alliance; Adam Fah for Dr. Bryan King, Seattle Children's Autism Center; Kathy George, Harrison, Benis and Spence law firm; Bill Krueger for Dr. Stobbe, Seattle Children's Autism Center; Channel Krueger, student; Jill Karsh, parent; Phillip Hall, parent.

CON: Mel Sorensen, American's Health Insurance Plans; Sydney Smith Zvara, Association of Washington Healthcare Plans.

OTHER: Melissa Johnson, Physical Therapy Association and Washington Speech and Hearing Association; Bob Cooper, National Association of Social Workers.